

BAUM
SPRING 2005

EXAM # _____
MAY 2, 2005

FINAL EXAMINATION
623-570 COMMERCIAL TRANSACTIONS II-E (SALES)

This is a three-hour examination. There is one question with multiple parts worth a total of 250 points.

This exam is closed book. A copy of the pre-2003 revision Articles 1 and 2 of the UCC and Official Comments has been provided with your exam. You may not use any other materials or sources.

Your answers are to be concise and directly applicable to the problems presented. In your answers, you are to apply the law to the facts and to provide specific citations to and analysis of relevant sections/subsections of the code, comments, and case law to demonstrate your reasoning and to support your conclusions. References to case names and code sections are sufficient as citation. You will not receive full credit for your answers if you do not DIRECTLY apply the law to your facts. General discussion of the law without application to the facts of the problem presented is not sufficient.

If you find any ambiguities in the facts or questions posed, identify the assumptions you make to resolve the ambiguities and then proceed with your answer.

If handwritten, your answers are to be single-sided. If typed, your answers are to be single-sided and double-spaced with 1" margins at tops, bottoms and sides of pages.

You are to return your exam questions with your answers.

On May 2, 2004, Harry Homeowner went to Superior Window Company's showroom to purchase new windows for his home. Homeowner explained to Sally Salesperson that he needed custom-made windows to replace his current windows, which were larger than any of the standard size windows that Superior sold. Homeowner provided Sally with the measurements for his windows and selected the type of windows that he wanted. Based on this information, Sally advised Homeowner that the new windows would cost \$3,000, plus an additional \$1,000 for installation. Homeowner responded that the price was fine, and they agreed that Superior would install the windows by June 30, 2004.

Superior installed the windows on June 6, 2004. Following the installation, Homeowner noticed that several of the new windows were cracked. On June 8, 2004, Homeowner called Sally to tell her about the cracked windows, and stated that because of the defects he would not pay for the windows. During the call with Homeowner, Sally offered to replace the cracked windows on June 22, 2004. Homeowner, however, refused and advised Sally that he intended to have another company install the windows. Superior filed a lawsuit against Homeowner to recover the \$4,000 that he had agreed to pay for the windows and installation.

1. Is the transaction between Homeowner and Superior covered by Article 2 of the Uniform Commercial Code ("Article 2")? Explain your answer, providing thorough analysis and application of the law.
2. As a defense to the lawsuit, Homeowner argues that no contract was formed because there was no written agreement. Assuming Article 2 applies, will Homeowner succeed with this defense? Explain your answer, providing thorough analysis and application of the law.
3. Alternatively, Homeowner argues that, even if there was a contract, he rejected the windows or revoked his acceptance. Assuming Article 2 applies, will Homeowner succeed with either of these defenses? Explain your answer, providing thorough analysis and application of the law.
4. In support of its claim, Superior asserts that it offered to replace the defective windows. Assuming Article 2 applies and a valid contract was formed, was Homeowner obligated to accept the replacement windows? Explain your answer, providing thorough analysis and application of the law.
5. Homeowner wants to file a counterclaim against Superior. What are the claims Homeowner might assert? Explain your answer, providing thorough analysis and application of the law.
6. Set out the formulas for calculating potential damages for both Superior and Homeowner. Explain your answer, providing thorough analysis and application of the law.
7. Who will prevail in the court action? Explain your answer, providing thorough analysis and application of the law.

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Assume that Homeowner permitted Superior to replace the cracked windows and paid the \$4,000 to Superior after the replacement windows were installed. Approximately two months later, Homeowner discovers numerous leaks around the windows. Upon further inspection, Homeowner discovers that the windows are fine, but that they were installed improperly. Homeowner pays \$1,500 to Fred Fixit to reinstall the windows properly. Shortly thereafter, Homeowner files a lawsuit against Superior relating to its defective installation of the windows.

8. Is the new dispute between Homeowner and Superior covered by Article 2? Explain your answer, providing thorough analysis and application of the law.